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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,769	01/10/2004	Heinz Lemberger	HN 1008 PUS	1768
27256	7590	03/07/2007		
ARTZ & ARTZ, P.C. 28333 TELEGRAPH RD. SUITE 250 SOUTHFIELD, MI 48034			EXAMINER CHARLES, MARCUS	
			ART UNIT	PAPER NUMBER
			3682	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/07/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary****Application No.**

10/707,769

**Applicant(s)**

LEMBERGER ET AL.

**Examiner**

Marcus Charles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 2, 4-45, 47, 49 and 51-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 46, 48 and 50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-14-06 and 01-08-07</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the first action on the merit and responding to the election of species filed relating 01-13-2007, which has been entered. Claims 1-60 are currently pending.

#### ***Election/Restrictions***

1. Applicant's election with traverse of species (1) in the reply filed on 01-31-2007 is acknowledged. The traversal is on the ground(s) that that inventions are capable of use together and are not material different. This is not found persuasive because the inventions are structurally different and cannot be used together. Each invention is independent of the next and is design to operate different and thus has different effect. The requirement is still deemed proper and is therefore made FINAL.

Note; It should be noted that there was a typing error in the restriction requirement in that in the figures representing species 1 should be 1-4 and for species 2, should be 5-8. Therefore, examiner found it necessary to prosecute the claimed belonging to species1 (figs. 1-4).

2. Claims 9-45, 47,49 and 51-60, withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 01-31-2007.

3. In addition, claim 2 and 4-8 are withdrawn from consideration by the examiner because the plurality of torsion bars or a bundle of bars are not included in figs. 1-4 of the elected embodiment. Note the bundle of bars is shown only in fig. 11.

***Priority***

4. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Drawings***

5. This application is filed informal drawings are not of sufficient quality. Accordingly, replacement-drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. In addition, the drawings figures are unclear so as to be able to clearly identify the various sections of the drawing. Note. the spring bundles are not clearly defined by the drawing.

***Specification***

6. The disclosure is objected to because of the following informalities: the specification is replete with phrase "rotationally fast way". The intended scope of the phrase is unclear because it is not clear as to what the phrase means. In addition, the phrase "spring bundle 27". Is unclear and confusing. It is not clear if the term means a plurality of springs. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

8. Claims 1, 3, 46, 48 and 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrase "rotationally fast way" renders the intended scope of the claims unclear because it is not clear as to what the phrase mean. In addition, it is not clear as to what the term rack is referring to because it is not clear as to how the spring assembly can be clamped into a rack.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 46 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Green (660,570). **Green** discloses a belt-tensioning device comprising torsion spring assembly with a longitudinal axis (fig. 7), one torsion bar (G), the torsion spring assembly is clamped axially in the rotational, a tensioning arm (K) having one end arranged at the spring assembly so as to be aligned approximately relative to the longitudinal axis, a tensioning roller arranged at the other end of the arm, wherein the axis of rotation of the tensioning roller extends substantially parallel to the longitudinal

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axis of the spring, wherein the tensioning arm is supported to oscillate about the longitudinal axis.

In claim 46 and 46, Green inherently discloses the claimed invention.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Bogner (6,648,783). Green does not disclose the damping unit at the tensioning arm and the support. Bogner discloses a tensioner comprising an arm (49/47) and a support (44) and a damping mechanism (50, 51) at the arm and the support to damp radial vibration and to prevent noise. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tensioner of Green to include a damping mechanism at the arm and the support in view of Bogner in order to damp radial vibration and to prevent noise.

13. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of JP (06-159459). Green does not disclose the tension arm is supported related to the rotational axis by a spring. JP (06-159459) discloses a tensioner arm (12) being supported by a spring (2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Green so that the arm includes a support in view of JP (06-159459) in order to prevent inadvertent movement

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of arm away from the tensioning direction during high loads thus preventing belt slippage.

***Citation***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Murray (3,136,170), Pfarrwaller (3,817,113), Arthur (4,464,146), Izutsu et al. (5,334,109), Fraley, Jr. et al. (6,960,145), Dutile (6,575,860), Ayukawa (6,264,578), Bogner (6,648,783) and WO (02/292279) disclose a tension with an arm biasing to tension the slack side of a belt.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (571) 272-7101. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ridley Richard can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
Marcus Charles  
Primary Examiner  
Art Unit 3682\  
February 26, 2007